

To: Review of the Local Government Rating System
Independent Pricing and Regulatory Tribunal
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Review of the Local Government Rating System

Local Government – Draft Report August 2016

Please find below Cumberland Council's Submission in regard to the Review of Local Government Rating System – Draft Report August 2016, for your consideration.

List of Draft Recommendations

Allow Councils to use CIV as an alternative to UV in setting rates

1. Councils should be able to choose between the Capital Improved Value (CIV) and Unimproved Value (UV) methods as the basis for setting rates at the rating category level. A council's maximum general income should not change as a result of the valuation method they choose. P26

This is **agreed** as it promotes fairness in the rating system that better reflects the tax. Units and Apartment blocks should be CIV whereas single dwelling should be UV.

Council should be able to choose which valuation method is appropriate for their local government area. The general income should be changed to also fit with the infrastructure and growth with that council area.

Councils may incur additional ongoing costs introducing using the CIV, through administration as values would need to be updated more often to reflect changes in values with the NSW property market. Values could be open to dispute and challenges on valuations from ratepayers. The NSW property market is faster moving than the other states where the CIV is used.

The option to use the CIV valuation method will provide a more equitable rating burden across the LGA. There has been a vast increase in the development of granny flats, thus increasing the provision of services. This method will provide a more efficient and effective methodology for

user pay and ability to pay as opposed to the current UV Valuations which are based on land size rather than the improvements of the land.

With the merging councils and expansion of the area of the LGA, the UV would not be best practice where property growth is less stagnant in some areas.

CIV may also impact on Pensioners whose land value may significantly increase and may not reflect their ability to pay, this could lead to further financial hardship where existing hardship is evident. This is also dependent on the rate structure and the proposed pension deferred scheme.

2. Section 497 of the Local Government Act 1993 (NSW) should be amended to remove minimum amounts from the structure of a rate, and section 548 of the Local Government Act 1993 (NSW) should be removed. P38

This is **agreed**. removing minimum and having CIV will increase transparency and understandability of the system.

Councils should have more flexibility in how they rate, not reduce the means to produce a fair rating system for its community. If councils have the option of continuing to use the Unimproved Values (UV), then the ability to apply Minimums should be retained, for the best fit for Council.

Allow councils' general income to grow as the communities they serve grow

3. The growth in rates revenue outside the rate peg should be calculated by multiplying a council's general income by the proportional increase in Capital Improved Value from supplementary valuations.
 - This formula would be independent of the valuation method chosen by councils for rating. P44

Agreed this is good initiative

Councils should be able to increase their Revenue Base to fit the needs of the community and general income to above the rate peg to meet the needs of growth for additional demand services. The use of supplementary values being provided would be a fair system to show growth with the council area. However, it should not matter whether UV or CIV is used, the UV will still show increases in values once developments have been finalised.

If councils are allowed to use other methods above rate pegging to meet the needs of budgetary demands, than this would reduce the need to apply for Special Rate Variations.

Rate Pegging does not consider the impacts from population growth and when Council build new community assets the cost to service these building is not included.

We also suggest a comparison between Council actual cost changes and index to capture the true cost of operations.

4. The Local Government Act 1993 (NSW) should be amended to allow Councils to levy a new type of special rate for new infrastructure jointly funded with other levels of Government. This special rate should be permitted for services or infrastructure that benefit the community, and funds raised under this special rate should not:
 - form part of council's general income permitted under the rate peg, nor
 - Require councils to receive regulatory approval from IPART. (P51)

Agreed, additional funding should be available from State & Federal Government to assist with infrastructure projects that benefits the community. This should be separate and not included with the general permitted income under rate pegging and the special rate funds should be restricted for the new infrastructure projects.

Once approval granted, reporting to the community through annual reports and community consultation only, no regulatory reporting needed.

5. Section 511 of the Local Government Act 1993 (NSW) should be amended to reflect that, where a council does not apply the full percentage increase of the rate peg (or any applicable Special Variation) in a year, within the following 10-year period, the council can set rates in a subsequent year to return it to the original rating trajectory for that subsequent year. P 53

Agreed, a catch-up of lost projectory general income over a 10 year period would be beneficial for councils. It is my understanding that it would assist councils with farming and mining category properties, Cumberland Council does not have these categories in its local government area.

Give councils greater flexibility when setting residential rates

6. The Local Government Act 1993 (NSW) should be amended to remove the requirement to equalise residential rates by 'centre of population'. Instead, councils should be allowed to determine a residential subcategory, and set a residential rate, for an area by:
 - a separate town or village, or
 - a community of interest.

It is agreed that the current requirements of 'centre of population' should be removed and replaced with the suggested. This would allow flexibility for rating residential properties within each local government area. This option may be more effective if the minimum rate was removed as the rates can be set according to the centre of population and areas where multi-unit developments are more dominant.

7. An area should be considered to have a different 'community of interest' where it is within a contiguous urban development, and it has different access to, demand for, or costs of providing council services or infrastructure relative to other areas in that development.

Council agrees with the recommendation.

8. The Local Government Act 1993 (NSW) should be amended so, where a council uses different residential rates within a contiguous urban development, it should be required to:

- Ensure the highest rate structure is no more than 1.5 times the lowest rate structure across all residential subcategories (ie, so the maximum difference for ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference as part of the Special Variation process, and

Strongly disagree with placing more restrictions. The politician in Local government can regulate this process.

The above is too complicated; the review process is an opportunity to improve rating to be a clear and effective system to maintain for its ratepayers with less government approval process. The Special Rate Variation should be an anomaly, not the 'norm'. It is within the Council's interest to set a fair, simple, sustainable rating system to its community, if this is not provided, then the Council is accountable to its ratepayers.

- Publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers. P69

The rates and charges should be shown on Council's Operational Plans, calculation of rates to be shown on the Rates Notice and website.

9. At the end of the 4-year rate path freeze, new councils should determine whether any pre-merger areas are separate towns or villages, or different communities of interest.
- In the event that a new council determines they are separate towns or villages, or different communities of interest, it should be able to continue the existing rates or set different rates for these pre-merger areas, subject to metropolitan councils seeking IPART approval if they exceed the 50% maximum differential. It could also choose to equalise rates across the pre-merger areas, using the gradual equalisation process outlined below.

Agreed, Council could outline new towns or villages for pre-merged councils and apply up to the 50% maximum where applicable. However, it should not be necessary to attain IPART's approval.

- In the event that a new council determines they are not separate towns or villages, or different communities of interest, or it chooses to equalise rates, it should undertake a gradual equalisation of residential rates. The amount of rates a resident is liable to pay to the council should increase by no more than 10 percentage points above the rate peg (as adjusted for permitted Special Variations) each year as a result of this equalisation. The Local Government Act 1993 (NSW) should be amended to facilitate this gradual equalisation. P70

Agreed that there may need to be an equalisation process and the Act should be amended to facilitate this gradual process.

Better target rate exemption eligibility

10. Sections 555 and 556 of the Local Government Act 1993 NSW should be amended to:
- Exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and

It is strongly agreed that a land exemptions should be based on the use of the land and not ownership. The Act should also be amended to exclude affordable housing from exemptions as to ensure the Councils with high DOH properties are not affected by loss of income under the current S556 exemptions.

- Ensure land used for residential and commercial purpose is rateable unless explicitly exempted. P76

It is agreed that all land is rateable unless explicitly exempted, to ensure equity for all ratepayers.

11. The following exemptions should be retained in the Local Government Act 1993 (NSW):

- Section 555(e) Land used by a religious body occupied for that purpose
- Section 555(g) Land vested in the NSW Aboriginal Land Council
- Section 556(o) Land that is vested in the mines rescue company, and
- Section 556(q) Land that is leased to the Crown for the purpose of cattle dipping.

Council agrees with the recommendation.

12. Section 556(i) of the Local Government Act 1993 (NSW) should be amended to include land owned by a private hospital and used for that purpose. P81

Council disagrees with the recommendation. Private Hospitals do charge for the services and would this extend to private nursing homes and aged care facilities who could argue exemption on the same basis.

13. The following exemptions should be removed:

- Land that is vested, in, owned by, or within a special or controlled area for, the Hunter Water Corporation, Water NSW or the Sydney Water Corporation (Local Government Act 1993(NSW) section 555(c) and section 555(d)
- Land that is below the high water mark and is used for the cultivation of oysters (Local Government Act 1993 (NSW) section 555(h)
- Land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (Local Government Act 1993 (NSW) section 556(G), and
- Land that is managed by the Teacher Housing Authority and on which a house is erected (Local Government Act 1993 (NSW) section 556(p).

Council agrees with the recommendation.

14. The following exemptions should not be funded by local councils and hence should be removed from the Local Government Act and regulation

- Land that is vested in the Sydney Cricket and Sports Ground Trust (Local Government Act 1993 (NSW) section 556(m)
- Land that is leased by the Royal Agricultural Society in the Homebush Bay area (Local Government (General) Regulation 2005 reg 123(a)
- Land that is occupied by the Museum of Contemporary Art Limited (Local Government (General) Regulation 2005 reg 123(b), and
- Land comprising the site known as Museum of Sydney (Local Government (General) Regulation 2005 reg 123(c).

Council agrees with the recommendation.

The State Government should consider whether to fund these local rates through States taxes.

15. Where a portion of land is used for an exempt purpose and the remainder for a non exempt activity, only the former portion should be exempt, and the remainder should be rateable.

Agree in principle, but could get confusing if applying the time used in percentage for a commercial enterprise for the same part of the land. May be treated the same as mixed development and VG to provide % proportion

16. Where land is used for an exempt purpose only part of the time, a self-assessment process should be used to determine the proportion of rates payable for the non-exempt use.

The review process is an opportunity to simplify rating, it is either exempt or not. This point may recreate future court decisions and legal costs to councils. Do not agree with the self-assessment process, it would be difficult to administer and determine on partial exemptions. May be treated the same as mixed development and VG to provide percentage proportion with regular inspections by council for compliance.

17. A council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations. P87

Agreed, however it is Council's responsibility to its ratepayers to produce a fair and equitable rating system, to ensure there is not excessive rate increases to its ratepayers.

18. The Local Government Act 1993(NSW) should be amended to remove the current exemptions from water and sewerage special charges in section 555 and instead allow councils discretion to exempt these properties from water and sewerage special rates in a similar manner as occurs under section 558(1). P88

Council agrees with the recommendation.

19. At the start of each rating period, councils should calculate the increase in rates that are the result of rating exemptions. This information should be published in the council's annual report or otherwise made available to the public.

Council agrees with the recommendation.

Replace the pensioner concession with a rate deferral scheme

20. The current pensioner concession should be replaced with a rate deferral scheme operated by the State Government.

- Eligible pensioners should be allowed to defer payment of rates up the amount of the current concession, or any other amount as determined by the State Government.

Disagree. Pensioners will not understand and will affect council's general income. It would be difficult to recover the outstanding rates from family, if pensioner passes away as the property is not always sold. It is recommended to allow for an equitable Australian pension concession to eligible ratepayers, which would then not affect other ratepayers. Alternatively, the State Government provide the full pension rebate to owners of land. Pensioners who rent would already receive Rental Assistance through Centrelink and as they are not the owner of the land are not responsible for payment of the rates. Alternatively if operated by the State Government, when will council receive payment towards rates?

- The liability should be charged interest at the State Government's 10-year borrowing rate plus an administrative fee. The liability would become due when property ownership changes and a surviving spouse no longer lives in the residence.

It would be difficult to recover the outstanding rates, especially when properties are endowed to family who also have limited resources and difficult to recover outstanding rates after the 10years. This would restrict funding to deliver services to the community. NSW Councils is the only state that shares the pension burden with the State Government.

Provide more rating categories

21. Section 493 of the Local Government Act 1993 (NSW) should be amended to add a new environment land category and a definition of 'Environmental Land' should be included in the LG Act.

Currently the land would be valued taking into consideration its Environmental impact and would be used as community land. Restrictions on the land would not enable other use. It should not be imposed on council to create a new category for 'Environmental Land'. This may affect the income of rates if this rate category was rated at a lesser amount than a normal rate structure. Too complex to maintain and determine the essential criteria. This topic discussion would be helped by using CIV method.

22. Sections 493, 519 and 529 of the Local Government Act 1993 (NSW) should be amended to add a new vacant land category, with subcategories for residential, business, mining and farmland. P100

Agree, where land only is being developed or vacant for a period of time, there should be some provision for a lesser rate than an occupied property. There are no services provided and unfair that the ratepayer should pay the same rate as the occupied property. The treatment would be similar from change of category or allowances. Again using CIV method would align with this amendment.

23. Section 518 of the Local Government Act 1993 (NSW) should be amended to reflect that a council may determine by resolution which rating category will act as the residual category.
- The residual category that is determined should not be subject to change for a 5-year period.

If the land use changes, it should be changed where needed and not wait a 5-year period, difficult to administer if introduced.

- If a council does not determine a residual category, the Business category should act as the default residual rating category. P102

Council to determine a best fit category, if the land is being used for commercial purposes it should be categorised as 'business' or dependant on zoning. Cumberland Council does not have mining or farmland within its local government area.

24. Section 529(2)(d) of the Local Government act 1993 (NSW) should be replaced to allow business land to be subcategorised as 'industrial' and 'commercial' in addition to centre of activity. P103

Agree with this concept as the subcategory of business commercial and industrial will provide a more efficient rate for small business (corner shops)etc as opposed to the same rate as an industrial premises.

25. Section 529(2) (a) of the Local Government Act 1993 (NSW) should be replaced to allow farmland subcategories to be determined based on geographic location. P104

Council agrees with the recommendation.

26. Any difference in the rate charged by a council to a mining category compared to its average business rate should primarily reflect differences in the council's costs of providing services to the mining properties. P105

Cumberland Council does not have properties categorised as 'Mining', however councils would have to provide additional services to the mining community and therefore higher rates to be paid and should be higher than Business Rates.

Recovery of council rates

27. Councils should have option to engage the State Debt Recovery Office to recover outstanding council rates and charges. P108

Agree Councils should have the option to engage State Debt Recovery to recover outstanding rates dependant on costs, as well as using Courts and Council's policies.

28. The existing legal and administrative process to recover outstanding rates should be streamlined by reducing the period of time before a property can be sold to recover rates from five years to three years. P109

Disagree, we see 5 Years as reasonable.

29. All councils should adopt an internal review policy, to assist those who are late in paying rates, before commencing legal proceedings to recover unpaid rates.

Agreed, Cumberland Council has a Debt Recovery Policy and all avenues to recover unpaid rates are approached prior to reaching a decision to commence the legal proceedings process. P110

30. The Local Government Act 1993 (NSW) should be amended or the Office of Local Government should issue guidelines to clarify that councils can offer flexible payment options to ratepayers. P111

Agreed, Cumberland Council currently offers flexible payment options to assist ratepayers to manage their rates debt.

31. The Local Government Act 1993 (NSW) should be amended to allow councils to offer a discount to ratepayers who elect to receive rates notices in electronic formats, eg. Via email. P112

Council agrees with the recommendation as Council would save on the cost of mailing notices.

32. The Local Government Act 1993 (NSW) should be amended to remove section 585 and section 595, so that ratepayers are not permitted to postpone rates as a result of land rezoning, and councils are not required to write-off postponed rates after five years. P 113

We agree with this recommendation. However, if Section 585 & 595 are removed from the Act, then the land owner should have a similar reduction to assist with the payment of the rates, such as a 'rezoning levy' to reduce the value for calculation of the rates. It is true the properties may have increased in land value due to new Land Environmental Plans, however owners may only be asset rich but cash poor. They may not have the ability to pay due to high increases in rates, but should not be forced out of their family home due to development.

Other draft recommendations

33. The valuation base date for the Emergency Services Property Levy and council rates should be aligned.
- The NSW Government should levy the Emergency Services Property Levy on a Capital Improved Value basis when Capital Improved Value data becomes available state-wide. P116

The Emergency Services Property Levy should be an easy system to administer, maintain and to collect for the NSW Government. It would be beneficial if the Unimproved Land Value remained to be aligned with the current rating system.

34. Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General. P118

Disagree with this recommendation. The current process is adequate as to the delivery of the supplementary process and the information is notified to council on a regular basis. Outsourcing the valuation services may lead to inconsistencies of current valuations and may not reflect the same methodology as the current valuation system. The outsourcing would lead to loss of regulated control and privacy issues.

Most external private valuers are used for the purpose of providing a "fair Value" or market value accounting treatment for sale (maybe consistent with the CIV).

The use of external valuers may increase the cost of the services and timing of supplementary advices will cause inconsistencies with the current method. This is already evident in the sale of land titles where council are now burden with the cost of these services